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DECISION ON PETITION  
TO WITHDRAW THE  
HOLDING OF ABANDONMENT

In re Application of  
Frank Crupi  
Application No.09/917,824  
Filed: July 31, 2001  
For: METHOD OF IN-SITU  
REJUVENATION OF ASPHALT  
PAVEMENT

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on June 4, 2003.

The petition is **DISMISSED**.

A review of the file record indicates that an Office action was mailed on September 18, 2002 wherein a three-month shortened statutory period for response was set. Since no response to the September 18, 2002 Office action was received the application was abandoned.

Petitioner requests withdrawal of the holding of abandonment on the basis that a response was allegedly timely filed. Petitioner alleges that a response was timely submitted via facsimile transmission on February 18, 2002 and submits a copy of an Auto-Reply Facsimile Transmission as provide proof of the timely submission.

The evidence submitted as proof of filing the response is flawed. Specifically, the Auto-Reply Facsimile Transmission illustrates the cover page but the cover page does not properly indicate what was being transmitted. There is nothing on the Auto-Reply Facsimile Transmission that indicates an amendment to application to the present application was sent.

The application is being forwarded to Files Repository.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petition desire reconsideration, he should submit a renewed petition which addresses the deficiencies noted above.

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Kenneth Dorner at (703) 308-0866.

  
Kenneth J. Dorner

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KJD/ekn 10/24/03